

# · TRAITÉ DE COOPÉRATION EN MATIÈRE DE BREVETS

## PCT

### RAPPORT PRÉLIMINAIRE INTERNATIONAL SUR LA BREVETABILITÉ

(chapitre I du Traité de coopération en matière de brevets)

(règle 44bis du PCT)

Référence du dossier du déposant ou du mandataire 33225PCT	<b>POUR SUITE À DONNER</b> Voir le point 4 ci-dessous	
Demande internationale no. PCT/FR2004/050153	Date du dépôt international ( <i>jour/mois/année</i> ) 09 April 2004 (09.04.2004)	Date de priorité ( <i>jour/mois/année</i> ) 11 April 2003 (11.04.2003)
Classification internationale des brevets (8 <sup>e</sup> édition, sauf indication d'une #dition ant#rieure) Voir les informations pertinentes dans le formulaire PCT/ISA/237		
Déposant MEDIALIVE		

1. Le présent rapport préliminaire international sur la brevetabilité (chapitre I) est établi par le Bureau international au nom de l'administration chargée de la recherche internationale selon la règle 44bis.1.a).

2. Ce RAPPORT comprend un total de 8 feuilles, y compris la présente feuille de couverture.

Dans les feuilles jointes, toute référence à l'opinion écrite de l'administration chargée de la recherche internationale doit être entendue, à la place, comme une référence au rapport préliminaire international sur la brevetabilité (chapitre I).

3. Le présent rapport contient des indications relatives aux points suivants :

- |                                     |               |   |
|-------------------------------------|---------------|---|
| <input checked="" type="checkbox"/> | Cadre n° I    | Base de l'opinion   |
| <input checked="" type="checkbox"/> | Cadre n° II   | Priorité  |
| <input type="checkbox"/>            | Cadre n° III  | Absence de formulation d'opinion quant à la nouveauté, l'activité inventive et la possibilité d'application industrielle  |
| <input type="checkbox"/>            | Cadre n° IV   | Absence d'unité de l'invention  |
| <input checked="" type="checkbox"/> | Cadre n° V    | Déclaration motivée selon l'article 35.2) quant à la nouveauté, l'activité inventive et la possibilité d'application industrielle; citations et explications à l'appui de cette déclaration |
| <input type="checkbox"/>            | Cadre n° VI   | Certains documents cités  |
| <input checked="" type="checkbox"/> | Cadre n° VII  | Certaines irrégularités relevées dans la demande internationale   |
| <input type="checkbox"/>            | Cadre n° VIII | Certaines observations relatives à la demande internationale  |

4. Le Bureau international communiquera le présent rapport aux offices désignés conformément aux règles 44bis.3.c) et 93bis.1 mais pas avant l'expiration du délai de 30 mois à compter de la date de priorité (règle 44bis.2), sauf si le déposant a présenté une requête expresse à cet égard en vertu de l'article 23.2).

Date d'établissement du présent rapport 02 March 2006 (02.03.2006)	
Bureau international de l'OMPI 34, chemin des Colombettes 1211 Geneva 20, Switzerland no de télécopieur +41 22 740 14 35	Fonctionnaire autorisé  Athina Nickitas-Etienne no de téléphone : +41 22 338 89 95

# PATENT COOPERATION TREATY

Translation

From the  
INTERNATIONAL SEARCHING AUTHORITY

## PCT

WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY

(PCT Rule 43bis.1)

To:

Date of mailing  
(day/month/year)

Applicant's or agent's file reference

**33225PCT**

**FOR FURTHER ACTION**

See paragraph 2 below

International application No.

**PCT/FR2004/050153**

International filing date (day/month/year)

**09.04.2004**

Priority date (day/month/year)

**11.04.2003**

International Patent Classification (IPC) or both national classification and IPC

Applicant

**MEDIALIVE**

1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☒ Box No. II Priority
- ☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☐ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☒ Box No. VII Certain defects in the international application
- ☐ Box No. VIII Certain observations on the international application

2. **FURTHER ACTION**

If a demand for international preliminary examination is made, this opinion will be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA") except that this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA/EP

Authorized officer

Facsimile No.

Telephone No.

WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/FR2004/050153

Box No. I

Basis of this opinion

1. With regard to the language, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.

☐

This opinion has been established on the basis of a translation from the original language into the following language

\_\_\_\_\_, which is the language of a translation furnished for the purposes of international search (under Rule 12.3 and 23.1(b)).

2. With regard to any nucleotide and/or amino acid sequence disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:

a. type of material

☐

a sequence listing

☐

table(s) related to the sequence listing

b. format of material

☐

in written format

☐

in computer readable form

c. time of filing/furnishing

☐

contained in the international application as filed.

☐

filed together with the international application in computer readable form.

☐

furnished subsequently to this Authority for the purposes of search.

3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table(s) relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.

4. Additional comments:

WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/FR2004/050153

Box No. II

Priority

1. ☒ The following document has not yet been furnished:

☒ copy of the earlier application whose priority has been claimed (Rule 43bis.1 and 66.7(a)).

☐ translation of the earlier application whose priority has been claimed (Rule 43bis.1 and 66.7(b)).

Consequently it has not been possible to consider the validity of the priority claim. This opinion has nevertheless been established on the assumption that the relevant date in the claimed priority date.

2. ☐ This opinion has been established as if no priority had been claimed due to the fact that the priority claim has been found invalid (Rules 43bis.1 and 64.1). Thus for the purposes of this opinion, the international filing date indicated above is considered to be the relevant date.

3. Additional observations, if necessary:

WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/FR2004/050153

Box No. V

Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability;  
citations and explanations supporting such statement

1. Statement

Novelty (N)

Claims \_\_\_\_\_ YES  
Claims 1-20 \_\_\_\_\_ NO

Inventive step (IS)

Claims \_\_\_\_\_ YES  
Claims 1-20 \_\_\_\_\_ NO

Industrial applicability (IA)

Claims 1-20 \_\_\_\_\_ YES  
Claims \_\_\_\_\_ NO

2. Citations and explanations:

- 1 Reference is made to the following documents in the present notification:

**D1:** WO 01/97520 A (MEDIALIVE; LECOMTE DANIEL (FR))  
20 December 2001 (2001-12-20)

2. The present application fails to comply with the requirements of PCT Article 33(1) since the subject matter of **claims 1, 16** does not meet the requirement of novelty defined in PCT Article 33(2).

- 2.1 Document **D1** discloses all the characteristics of the subject matter of **claim 1**, in so far as it has been understood:

Document **D1** describes a method for distributing digital video products with a restriction of certain products at least in terms of the representation and reproduction rights thereof (**D1**: abstract, page 3, lines 24-27), which comprises:

An initial stage in which an original digital video

WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/FR2004/050153

Box No. V

Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability;  
citations and explanations supporting such statement

sequence bank is created on a server which cannot be accessed by the public (D1: page 3, lines 29-31), for each request made by a user,

a stage in which the user selects one or more sequences from the said video bank (D1: page 13, line 29 - page 14, line 6), the said selection stage activating

a modification stage producing a modified main sequence in the nominal format of the original selected video sequence, but whose content has been modified by splitting it into two parts, the larger part being recorded in said modified main sequence, visually unusable on standard reading equipment and a small part being retained in the said server, within a complementary digital information personalized for the said user and complementary to the said modified main sequence (D1: page 29, lines 1-16)

a stage of transmitting the said modified main sequence to the distribution site (D1: page 29, lines 1-16)

A stage in which the said modified main sequence is recorded on the distribution site on a standard hardware medium (D1: page 7, lines 11-14), and

a stage in which the said complementary digital information is delivered to the user during screening of the modified main sequence provided to

WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/FR2004/050153

Box No. V

Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability;  
citations and explanations supporting such statement

the user on the said hardware medium supplied by the distributor (**D1**: page 29, lines 13-16).

- 2.2 Given that the **independent claim 16** has been regarded as the system corresponding to the method of **claim 1**, its subject matter is not novel either.
- 2.3 It should be pointed out that even if the applicant were to interpret **claims 1, 16** in a manner which allows him to insist that their subject matter is novel, based on **minor** differences between the characteristics of these claims and those disclosed in document **D1**, the subject matter of **claims 1, 16** would still not involve an inventive step, PCT Article 33(1) and (2), as compared with the disclosure of **D1**, especially given that these documents disclose the same proposition and the same type of solution as is claimed in the said claims.
3. **Dependent claims 2-15, 17-20** do not contain any features which, in combination with the features of any one claim to which they refer, meet the requirements of the PCT in respect of novelty and inventive step (PCT Article 33 (2) and (3)).

WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/FR2004/050153

Box No. VII      Certain defects in the international application

The following defects in the form or contents of the international application have been noted:

1.    The independent claims do not follow the two-part form as defined in PCT Rule 6.3(b), which in the present case would be appropriate, with the characteristics known from the prior art (document **D1**) placed in the preamble (PCT Rule 6.3(b)(i)) and the rest of the characteristics in the characterizing part (PCT Rule 6.3(b)(ii)).
2.    Contrary to PCT Rule 5.1(a)(ii), document **D1** is not cited in the description nor are its contents commented on.

Moreover, the passage relating to the technical problem to be solved is not revised following the disclosures of document **D1** pursuant to the conditions stated in PCT Rule 5.1(a)(ii) (see also the PCT directives 4.06).